

## SECTION 4 - REGULATIONS

### 4.1 Application of Regulations

- 4.1.1 Conformity Required: No "structure" shall be erected, constructed, moved, "altered," rebuilt or enlarged nor shall any land, water or "structure" be used, designed or arranged to be used for any purpose except in conformity with this Ordinance.
- 4.1.2 Minimum Requirements: In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements necessary for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare.
- 4.1.3 Multiple Concurrent Applications: Notwithstanding any other provision of this Ordinance, where an application requires more than one concurrent "site plan" and/or special permit approval which would otherwise be within the jurisdiction of more than one approving agency, there shall be one approving agency for all such concurrent approvals, as set forth herein. The approving agency shall be the Common Council if it would have been the approving agency for any of the approvals. In all other circumstances, the approving agency shall be the Planning Board.

### 4.2 Relation to Other Regulations

- 4.2.1 Other Applicable Codes, Standards and Regulations: There are many other applicable codes, standards and regulations of the City of White Plains in addition to this Zoning Ordinance. These include the Requirements for Approval of Subdivision Plans, the Building Code, the Fire Prevention Code, the New York State Environmental Quality Review Act ("SEQRA") and rules and regulations promulgated thereunder, the Plumbing Code, the City Charter, the Ordinance Relating to the Erection and Maintenance of Outdoor Signs and Awnings, the Minimum Housing Standards Ordinance, the Ordinance Regulating and Prohibiting Unnecessary and Annoying Noises and Harmful Sounds, the Ordinance Licensing and Regulating Buildings Containing Rooming Units, the Air Pollution Control Ordinance, and the Ordinance to License and Regulate the Garaging of Auto Trucks or Light Delivery Cars in Residential Zones.
- 4.2.2 Conflicting Standards: This Ordinance shall not be deemed to affect in any manner whatsoever any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater or

lesser restriction upon the "use" of "structures" or land, or upon the erection, construction, establishment, movement, "alteration" or enlargement of "structures" than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, covenants or agreements, the more restrictive requirements shall prevail.

#### 4.3 "Non-conforming Uses" and Other Non-conformities

##### 4.3.1 Continuing Existing "Uses," "Buildings" and "Structures":

4.3.1.1 Except as otherwise provided herein, the lawfully permitted "use" of lands, "structures" or "buildings" and the lawfully permitted existence of "buildings" or "structures" at the time of adoption of this Ordinance may be continued although such "use," "building" or "structure" does not conform to the standards specified in this Ordinance for the district in which such lands, "buildings" or "structures" are located. Similarly, whenever a zoning classification or the restrictions affecting property within a district shall be changed hereafter so as to render "non-conforming" a "use," "building" or "structure" then presently or theretofore legally existing, such "use," "building" or "structure" may nevertheless continue subject to the conditions set forth below. Said "uses" shall be deemed "non-conforming uses" and said "buildings" and "structures" shall be deemed "dimensionally non-conforming."

4.3.1.2 Any "use" in existence as of the effective date of this Ordinance which is by this Ordinance made a special permit "use" in the district in which it is located shall be presumed to have a special permit to the extent such "use" is legally conforming as of the date immediately prior to the effective date of this Ordinance.

##### 4.3.2 "Non-conforming Use" of Land, "Buildings" or "Structures":

4.3.2.1 The "non-conforming use" of land may be continued, provided, however, that no such "non-conforming use" shall be physically enlarged or intensified, nor shall it be extended to occupy a greater area of land than that occupied by such "use" at the time of the adoption of this Ordinance, unless specifically allowed by other provisions in this Ordinance, nor shall any such "non-conforming use" be moved in whole or in part to any other portion of the "lot" or

parcel of land occupied by such "non-conforming use" at the time of the adoption of this Ordinance.

- 4.3.2.2 A "building" or "structure" the "use" of which does not conform to the "use" regulations for the district in which it is situated shall not be enlarged, extended or "altered" structurally unless the "use" therein is changed to a conforming "use," or except to conform to an order of the Commissioner of Building to either correct an unsafe condition or to conform to the requirements of applicable laws or ordinances.
- 4.3.2.3 No "non-conforming use" of a "building" or "structure" shall be enlarged or extended, except that any such "non-conforming use" may be extended throughout any parts of the "building" or "structure" which were obviously or manifestly arranged or designed only for such "use" at the time of the adoption or amendment of this Ordinance.
- 4.3.2.4 No "non-conforming use" shall be changed to another "non-conforming use," except as provided in Section 4.3.5.
- 4.3.2.5 If a "non-conforming use" ceases for any reason for a total of 6 months during any 12 month period, or is changed to a conforming "use," any future "use" of the land, "building" or "structure" shall be in conformity with the provisions of this Ordinance. Substantial cessation of activities consistent with or required for the operation of such "non-conforming use" or substantial vacancy of the "building" or "structure" in which the "non-conforming use" was conducted, together with substantial cessation of activities consistent with or required for the operation of such "non-conforming use" shall be deemed to constitute a discontinuance thereof within the meaning of this Ordinance, irrespective of whether an intention to abandon the "non-conforming use" may exist. On application, however, the Board of Appeals may extend the period upon a finding that it is not reasonable in its application to the particular premises, taking into consideration the characteristics of the "non-conforming use," the investment which has been made in it, the circumstances of the discontinuance and the suitability of the "structure" for a permitted or special permit "use."

- 4.3.2.6 If any "building" or "structure" in which any "non-conforming use" is conducted or maintained is hereafter removed, the subsequent "use" of the land on which such "building" or "structure" was located and the subsequent "use" of any "building" or "structure" thereon shall be in conformity with the standards specified by this Ordinance for the district in which such land is located.
- 4.3.3 Dimensional Non-conformity: A "lot," "building" or "structure" that is conforming in "use" but does not conform to the "lot" dimension, "yard" dimension, "height," "building coverage," "floor area ratio," off-"street" parking, loading, or similar dimensional regulations of this Ordinance for the district in which such "lot," "building" or "structure" is located, shall be deemed to be "dimensionally non-conforming." No permit shall be issued that will result in the increase of any such dimensional non-conformity, but any "building" or "structure" or portion thereof may be "altered" to decrease its dimensional non-conformity.
- 4.3.4 Reconstruction:
- 4.3.4.1 Should a "building" or "structure," the use of which or the "use" of a portion of which is "non-conforming" or which is "dimensionally non-conforming," be destroyed or damaged by any means to an extent of more than 75 percent of the replacement cost of the entire "building" or "structure" used in connection therewith at the time of the reconstruction, it shall not thereafter be reconstructed or used except in conformity with the provisions of this Ordinance.
- 4.3.4.2 Should a "building" or "structure," the "use" of which or the "use" of a portion of which is "non-conforming" or which is "dimensionally non-conforming," be destroyed or damaged by any means to an extent of 75 percent or less of the replacement cost of the entire "building" or "structure" used in connection therewith at the time of the reconstruction, it may be reconstructed and any accompanying "non-conforming use" or "use" which is "dimensionally non-conforming" continued, provided that the reconstruction is commenced within 1 year of the date of such damage and completed within 2 years of said date, and further provided that it shall be reconstructed in accordance with a plan approved by the Board of Appeals so as to result, where reasonable, in greater conformity with this Ordinance.

- 4.3.5 Change to Other "Non-conforming Use": On application, any "non-conforming use" of land, "buildings" or "structures" may be changed to another "non-conforming use" upon approval by the Board of Appeals, based on a finding that the proposed "non-conforming use" is more appropriate to the district than the existing "non-conforming use." In permitting such change, the Board of Appeals may impose whatever conditions and safeguards it may deem necessary or appropriate to further the purposes of this Ordinance.
- 4.3.6 Improvement of "Non-conforming Uses": In order that "non-conforming uses" may gradually be brought into greater conformity with this Ordinance and the adverse external effects of such "non-conforming uses" may be reduced, the owner of the land, "building" or "structure" so used may be permitted to make limited changes to such "building," "structure" or "non-conforming use" in conjunction with a "site plan" whereby through landscaped screening and buffer areas, control of noise, smoke, odors, lighting, architectural changes, location and layout of "parking lots" and access drives, or by any other appropriate means, these purposes may be achieved. Such plan shall be presented to the Board of Appeals (to the Common Council where the minimum parking requirement of this Ordinance for the subject "non-conforming use" exceeds 50 spaces) which may then grant approval or approval with modifications provided said agency finds that the purposes of this Section shall be met.
- 4.3.7 Amortization of "Parking Lots" in Residence Districts: Notwithstanding the preceding provisions of this Section, any "parking lot" which is no longer a permitted "use" under the terms of this Ordinance shall cease and be discontinued by the third anniversary of the effective date of this Ordinance and any subsequent "use" of the premises on which it is located shall conform to the "use" regulations of the district in which such premises are located.
- 4.3.8 Applicability of Garaging of Auto Trucks or Light Delivery Cars: Except as otherwise specifically permitted, no auto truck or light delivery car shall be parked on property in any residential district except where a "private garage" accessory to a "dwelling" in a residential district has been authorized for such "use" for a particular vehicle duly licensed under an ordinance adopted May 2, 1977 and effective August 2, 1977, entitled An Ordinance to License and Regulate Garaging of Auto Trucks or Light Delivery Cars in Residential Zones. Such garage may continue to be used for the garaging of such vehicle licensed for "use" thereof as long as such vehicle continues to be licensed and so long as

the ownership of the residentially zoned property to which the "private garage" is accessory remains unchanged. For the purposes of this Section, a change of title from one spouse to another or to a surviving spouse shall not be deemed a change in ownership.

4.4 General Regulations:

- 4.4.1 "Lot" for Every "Building": Every "building" hereafter erected shall be located on a "lot" and there shall be no more than one "main building" and its "accessory buildings" on one "lot," except in "conservation developments" and except for multi-family and non-residential "buildings" in districts where such "uses" are permitted.
- 4.4.2 Subdivision of a "Lot": Where a "lot" is formed hereafter from part of a "lot" already occupied by a "building," such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Ordinance with respect to the existing "building" and all "yards" and other required dimensional regulations in connection therewith, and no permit shall be issued for the erection of a "building" on the new "lot" thus created unless it complies with all the provisions of this Ordinance. Where the dimensions of two existing "lots" are changed and no additional "lots" are created, such change shall not be deemed a subdivision provided that the dimensions of both resulting "lots" comply with the provisions of this Ordinance.
- 4.4.3 Irregularly Shaped "Lots": Where a question exists as to the proper application of any of the requirements of this Ordinance to a particular "lot" because of its peculiar or irregular shape, the Board of Appeals shall determine how the requirements of this Ordinance apply as provided in Section 10.3.6 of this Ordinance.
- 4.4.4 Obstructions to Vision at Intersections in Residential Districts: In accordance with the provisions of an ordinance entitled An Ordinance Regulating and Controlling Obstructions to Vision on the Corner Lots in Residence Districts in the City of White Plains, adopted August 4, 1980, nothing shall be placed or maintained within the restricted area of an intersection in a residential district in such a manner as to obstruct traffic visibility.
- 4.4.5 New "Buildings" on "Lots" Smaller Than Minimum Required Area or Dimensions: A permit may be issued for the erection of a "building" for a permitted "use" on a "lot" for which a valid conveyance has been recorded prior to the adoption of this

Ordinance, notwithstanding that the area or dimensions of such "lot" are less than that required for the district in which such "lot" is located, provided that:

- 4.4.5.1 The "lot" met the zoning requirements at the time the deed to the "lot" was recorded or the title to the "lot" was conveyed;
- 4.4.5.2 All "yard" setbacks and other "building" related requirements which are in effect at the time of the obtaining of the building permit are complied with;
- 4.4.5.3 The ownership of such "lot" was not the same as any other "lot" or "lots" contiguous thereto at the time of the adoption of this Ordinance. If the opposite is the case, such other "lot" or "lots," or so much thereof as may be necessary, shall be combined with the first-named "lot" to make one or more conforming "lots," whereupon a permit may be issued, but only for such conforming "lots."

Where the required area or dimensions of "lots" are changed by an amendment to this Ordinance, any "lot" legally in existence on that date and made non-conforming by such amendment may be built upon as provided in this Section.

- 4.4.6 "Yard" for Every "Building": Except on a "development site," no "yard," "court," or other open space provided about any "building" for the purpose of complying with the provisions of this Ordinance shall be included as any part of the "yard," "court" or open space for any other "building." Except on a "development site," no "yard," "court" or any other open space on one "lot" shall be considered as a "yard," "court" or open space for a "building" on any other "lot."
- 4.4.7 Use of "Yards": No "building," "accessory building" or "structure" shall be permitted within any minimum required "yard" except for "swimming pools" as regulated by Sections 4.4.24 and 6.7.3, and except as may be specifically permitted in Section 5.3. No parking shall be permitted within any "yard" except as provided in Section 8.
- 4.4.8 No Reduction of Required "Yards": No "lot" shall be so reduced in area as to make any "yard" or "court" smaller than the minimum required under this Ordinance.
- 4.4.9 "Front" and "Side Yards" on "Corner Lots": The owner of a "corner lot" in a residence district may elect either "yard" fronting on a "street" as the "front yard," with any other "yard" fronting on a "street" then becoming a "side yard." However, where the majority of "lots" in any block are developed, the "front yard" shall be on the same side as the "front yards" of such other "lots." Also, if

on the "street" chosen for the "side yard," the approving agency or the Commissioner of Building for a "one family" or "two family dwelling" and its permitted "accessory buildings," accessory "structures" and "accessory uses" finds that there is an average setback of existing "buildings," from which no "building" departs too greatly, the agency or Commissioner may require the "side yard" on such "corner lot" to be equal in depth to such average setback.

4.4.10 "Side Yards" of Existing "Lots" Narrower Than 50 Feet: For each 1 foot by which a "lot" in a residential district is narrower than 50 feet, 1.5 inches may be deducted from the required minimum width of any "side yard" and 3 inches from the sum of the required widths of both "side yards" for "buildings" not exceeding 2 ½ "stories," provided, however, that no "side yard" shall be narrower at any point than 5 feet in any case.

4.4.11 "Rear Yards" of Existing "Lots" Shallower Than 100 Feet: For each 1 foot by which a "lot" in a residence district is less than 100 feet deep, 3 inches may be deducted from the required minimum depth of the "rear yard," provided, however, that no required "rear yard" shall be less than 15 feet deep in any case.

4.4.12 Special "Building" Setbacks: All requirements of this Ordinance applicable to "front yards" shall apply within a special "building" setback. In addition, no "building" or "structure" may be located therein (either below or above ground), no projecting horizontal architectural features shall be allowed therein (Section 4.4.14.2 to the contrary notwithstanding), nor shall any "parking lot" be located therein (Section 8.6.1 to the contrary notwithstanding), except in the Central Parking Area as may be determined by the "site plan" approving agency to be consistent with the anticipated and desired "uses" and purposes of any such special "building" setback and approved by the approving agency as part of the "site plan." In cases where the "front yard" requirements in Column 9 of Section 5.3 of this Ordinance, Schedule of Dimensional Regulations, are greater than the special "building" setback, the requirements of Section 5.3 shall apply.

4.4.13 "Courts": Any corner of a "court" area may be cut off between walls of the same "building," provided that the length of such diagonal cutoff wall does not exceed 6 feet.

4.4.14 Structural Projections Permitted into Required "Yards" and "Courts":

4.4.14.1 Limited walls and fences may be allowed in required "yards" and "courts," subject to the requirements of Section 4.4.16.



- 4.4.14.2 The ordinary projections of window sills, belt courses, chimneys, cornices, and eaves and other similar architectural features are allowed, provided that such architectural features shall not project more than 3 feet into any required "yard" and not be less than 5 feet from any "lot line," except for eaves which may be 4 feet from a "lot line."
- 4.4.14.3 A "deck," "terrace," or steps, the top surface of which is not over 3 feet high above the average natural "grade" of the "lot" and which is not over 3 feet above the pre-existing "grade" directly below any such "deck" and which is distant at least 5 feet from every "lot line," may project into a required "yard." In residential districts such projections shall be at least 15 feet from any "front lot line" or "rear lot line." Any projecting "structures," including steps and "decks," shall be included in computing "gross land coverage."
- 4.4.14.4 No other porch may project into any required "yard."
- 4.4.14.5 Balconies may project into a required "yard," provided such projection is not more than 5 feet, extends no closer than 10 feet to any "lot line," and the sum of the length of such balconies on any "story" does not exceed one-fourth the length of the wall from which they project.
- 4.4.15 Exceptions to "Height" Limitations: The "height" limitations of this Ordinance shall not apply to the following:
- 4.4.15.1 Churches, schools and "uses" of the City of White Plains in residence districts provided that for each 1 foot by which the "height" of such "building" exceeds the maximum "height" permitted in the district, the "side," "front" and "rear yards" required shall be increased an additional 1 foot.
- 4.4.15.2 Church spires, belfries, cupolas, domes, monuments, observation towers, chimneys, smoke stacks, derricks, flag poles, radio towers, masts and aerials, where not used for human occupancy.
- 4.4.15.3 Rooftop bulkheads, elevator penthouses, water towers, water tanks, monitors, fire towers, hose towers, or cooling towers, and such other equipment as is deemed necessary by the Commissioner of Building, provided that such mechanical equipment shall be erected only to the height necessary to accomplish the purpose it is intended to serve. The maximum area covered by such mechanical equipment shall be

as determined necessary and appropriate by the approving agency on recommendation from the Commissioner of Building, and where the "lot" on which such mechanical equipment is located is in or adjacent to a residence district such mechanical equipment shall be set back from the edge of the roof at least 1 foot for each 1 foot by which such features exceed the maximum "height" otherwise specified for the district in which they are located.

- 4.4.15.4 Parapet walls or cornices which do not exceed the maximum "height" requirement for the district in which they are located by more than 4 feet.
- 4.4.15.5 Solar energy systems installed pursuant to the requirements of Section 4.4.21 of this Ordinance, provided that such systems shall be erected only to the height necessary to accomplish the purpose they are intended to serve.
- 4.4.15.6 The visual screening of mechanical equipment located above the horizontal area of the roof of "buildings" as required under Section 4.4.22 of this Ordinance.
- 4.4.15.7 For "buildings" located in the CB-4 and UR-4 Districts within the Central Parking Area, on development sites over 200,000 square feet and at the absolute discretion of the Common Council as "site plan" approving agency, "uses" ancillary or accessory to permitted principal "uses" in the "building," other than dwelling units, hotel rooms, or facilities providing sleeping accommodations may be located above the maximum "height" of the "building" within an area enclosed by the visual screening of the mechanical equipment, as approved pursuant to Section 4.4.22, but in no case shall the area occupied by any "use" be greater than 80% of the horizontal area of any mechanical level on which such use is located.
- 4.4.15.8 In the UR-4 and CB-4 districts within the Central Parking Area, on development sites of 200,000 square feet or greater, an increase in "height" resulting from a modification, "alteration," adjustment or change to an approved "site plan" which does not exceed any of the following thresholds as shown and approved on the approved "site plan":
  - 4.4.15.8.1 There is no increase in the number of "stories."

- 4.4.15.8.2 There is no increase in the "gross floor area."
- 4.4.15.8.3 There is no increase in the overall "height" of the "building" to the top of the approved visual screening of the mechanical equipment.
- 4.4.15.8.4 There is no significant "alteration" of the essential characteristics of the design of any "buildings" or of the relationship of the project to the "street," adjacent properties and the area in general.

4.4.16 Fences: Fences and walls, including retaining walls, are permitted within required "yards" and "courts" provided that:

- 4.4.16.1 Such fences or walls do not exceed 4 feet in height if located in a required "front yard" or in any other required "yard" abutting a "street," and 6 feet in height in any other required "yard," except that a fence of not less than three-fourths open construction may have a maximum height of 8 feet where located in a non-residential district, and except that the Commissioner of Building may, where required for safety, require the addition to a retaining wall of a motor vehicle bumper guard or a fence, of not less than three-fourths open construction and not exceeding the above height limitations by more than 4 feet. A fence or wall not exceeding 8 feet in height shall be permitted for purposes of sound attenuation within a required "side yard" or "rear yard" which "yard" immediately abuts the following limited access roadways: I-287, the Bronx River Parkway, the Hutchinson River Parkway, and the Central Westchester Parkway or access ramps leading thereto, conditioned that both sides of the fence or wall be equally finished.
- 4.4.16.2 The fence or wall meets the requirements of Section 4.4.4 of this Ordinance.

- 4.4.16.3 If any such fence or wall located within a required "yard" has a finished or more attractive side, such side shall face the neighboring property or "street."
- 4.4.16.4 All fences or walls must be inside all "lot lines."
- 4.4.16.5 Electrically charged fences, barbed wire fences and other fences constructed of sharp materials are not permitted within residential districts. Barbed wire is permitted as a part of a fence in a non-residential district, provided such barbed wire is located at least 6 feet above the ground.

4.4.17 Security Grilles:

- 4.4.17.1 Roll-up, folding or sliding doors or grilles of non combustible construction, otherwise known as security grilles, may be attached to the exterior of "buildings" in the LI (Light Industrial) district, and may project from the "building" beyond the "lot line," provided:
  - 4.4.17.1.1 Such security grilles may project no more than 4 inches beyond the "lot line." An enclosure, motor or housing for said security grille may project up to 18 inches beyond the "lot line" provided that there is at least 8 feet of clearance between the lowest point of such projection and the ground or pavement below.
  - 4.4.17.1.2 All security grilles and accompanying enclosures, motors and housings shall be constructed so that they may be removed at any time without endangering the structural safety or fire safety of the "building."
  - 4.4.17.1.3 All security grilles shall be of one hundred percent open construction throughout, and must be located within a completely enclosed structure when not in use.
  - 4.4.17.1.4 All security grilles are subject to review and approval by the Design Review Board.
- 4.4.17.2 As of the date of adoption of this Ordinance, roll-up, folding or sliding doors or grilles of non combustible construction, otherwise known as security grilles, may not be installed on the exterior of any "building" within non-residential districts, but may be installed within the interior of such "buildings," subject to the following:

- 4.4.17.2.1 All security grilles shall be of one hundred percent (100%) open construction (open mesh design) throughout.
- 4.4.17.2.2 In lieu of the above, other similar security grates or devices may be installed within the interior of "buildings," subject to review and approval of the Commissioner of Public Safety and the Design Review Board.
- 4.4.17.2.3 All security grilles in existence on August 6, 1984, which are not of one hundred percent (100%) open design (such as security grilles made up, in whole or part, of solid panels) shall be removed, and such use shall be discontinued on or before August 6, 1985.
- 4.4.17.2.4 All security grilles in existence as of the date of the adoption of this Ordinance which are attached to the exterior of "buildings," except in the LI district, shall be removed at the time of any change in "use."
- 4.4.17.2.5 No security grille or similar device shall be installed unless a permit is obtained from the Department of Building, following review and approval by the Design Review Board.

4.4.18 Outdoor Storage:

- 4.4.18.1 Except where otherwise specifically permitted by this Ordinance or by any other ordinance or regulation of the City of White Plains, no outdoor storage of any kind nor outdoor display of goods for sale shall be permitted in any district.
- 4.4.18.2 No boat 18 feet or more in length may be stored or parked in any district. No "mobile home," "motor home," "travel trailer" or "pick-up coach" may be stored or parked in any district except that temporary use of such devices for offices is permitted for highway or municipal construction projects or for construction projects for which a building permit has been issued.
- 4.4.18.3 "Camper trailers" or boats less than 18 feet in length may not be parked nor stored outdoors. They may, however, be store or parked within a completely enclosed "building," conditioned that the doors to such "building" shall be kept closed when such boat or "camper trailer" is parked or stored therein.

4.4.19 Landscaping, Screening and Buffer Areas:

4.4.19.1 All portions of "lots" and "development sites" subject to special permit review under Section 6 of this Ordinance or "site plan" review under Section 7 of this Ordinance which are not used for locations for "buildings," "structures," "parking lots," loading spaces," sidewalks or similar purposes, shall be suitably landscaped and permanently maintained with planting of ground cover, grass, trees and shrubbery, in accordance with specifications approved as a part of the "site plan."

4.4.19.2 Any application to construct or "alter" any "building" or "structure" or to establish any "use" in any non-residential district or any non-residential "use" in any district shall include provisions for a buffer screening area at least 10 feet in width along any "lot line" abutting a "lot" in a residential district. Any application to construct a development of "multi-family dwellings" requiring more than 10 "parking spaces" shall include provisions for a buffer screening area at least 10 feet in width along any "lot line" abutting a privately owned "lot" in a one-family or two-family residential district. These requirements may be waived by the approving agency in situations where it determines that adjoining land "uses," topographic features or existing vegetation satisfy the same purpose. The approving agency may allow the substitution of a wall or fence of location, height, design and materials approved by it, and meeting the requirements of Section 4.4.14, for part or all of the required planting. Where such a buffer screening area is required, it shall be of evergreen planting of such type, height, spacing and arrangement as in the judgment of the approving agency will screen the activity involved from the neighboring residential area. Non-evergreen planting may seasonally supplement evergreen planting but not take its place. The plan and specifications for such planting shall be filed with the "site plan" approved by the approving agency for the "use" of the "lot" or "development site."

4.4.19.3 All required landscaping shall be properly trimmed and maintained in good condition at all times.

- 4.4.19.4 In the RM-1 District, a minimum of 20 percent of the area of "lots" subject to special permit review under Section 6 of this Ordinance or "site plan" review under Section 7 of this Ordinance shall be suitably landscaped and permanently maintained with planting of ground cover, grass, trees, and shrubbery, in accordance with specifications approved as part of the "site plan" approval.
- 4.4.19.5 In the RM-1.5 and RM-2.5 Districts, a minimum of 25 percent of the area of "lots" subject to special permit review under Section 6 of this Ordinance or "site plan" review under Section 7 of this Ordinance shall be suitably landscaped and permanently maintained with planting of ground cover, grass, trees and shrubbery, in accordance with the specifications approved as part of the "site plan" approval.
- 4.4.20 Exterior Lighting: All exterior lighting accessory to multi-family or non-residential "uses," and all exterior lighting of "recreation facilities" accessory to residential "uses," including the lighting of signs, shall be of such type and location and have such shading as will prevent the source of light from being seen from any adjoining "streets" and residential properties and which will prevent objectionable glare observable from such "streets" or properties.
- 4.4.21 Solar Access and Energy Considerations:
- 4.4.21.1 Solar energy systems, which are devices used to capture the sun's radiation and transform it into usable heat or electricity, are permitted as a part of, and may be attached to, any "building."
- 4.4.21.2 Installation of solar energy systems shall be subject to approval by the Design Review Board which shall, in its review pursuant to the requirements of Section 9 of this Ordinance, take into account the needs of energy conservation.
- 4.4.21.3 Access to sunlight for present and potential solar energy systems, both on and off site, as well as "building" siting, orientation and landscaping, shall be considered by all approving agencies as a part of their review of any application.
- 4.4.21.4 New construction on any "lot" which would block access to sunlight between the hours of 9:00 a.m. and 3:00 p.m. Eastern Standard Time for existing approved solar energy systems or for solar energy systems for which a permit has been issued is prohibited except by permission

from the Board of Appeals on a showing that other arrangements are infeasible or impractical, or that the degree of blocking is negligible.

4.4.22 Mechanical Equipment to be Screened: Mechanical equipment located on and above the tops of "buildings" shall be visually screened in a manner approved by the agency approving the "site plan" on recommendation of the Design Review Board.

4.4.22.1 For "buildings" located in the CB-4 and UR-4 Districts within the Central Parking Area on development sites of 200,000 square feet or greater, the following shall also apply:

4.4.22.1.1 The visual screening of the mechanical equipment shall enclose "uses" approved pursuant to Section 4.4.15.7 hereof.

4.4.22.2 The approving agency for the visual screening of mechanical equipment shall be the Common Council.

4.4.23 Accessory "Dish Antenna": "Dish antennas" shall not be located, installed, constructed or maintained on any "lot," "building" or "structure" except when in compliance with all of the following requirements and any of the individual standards contained in Section 6.7.21, where applicable.

4.4.23.1 Location: All "dish antennas" shall conform to the following requirements:

4.4.23.1.1 A "dish antenna" shall not be located in any portion of a "front yard" and shall be no closer to any "lot line" than the minimum distance established for accessory "structures" for the district. It may be excluded from "side yards" if it is determined to be substantially visible from a "street."

4.4.23.1.2 A "dish antenna" shall not be mounted on a roof or attached to a "building" or "structure" in any one or two family residential district, except if the applicant complies with the criteria set forth in Section 6.7.21.2.

4.4.23.2 Size: The dish component of a "dish antenna" shall not be greater than 10 feet in diameter, nor greater than 10 feet in depth at its greatest point.

4.4.23.3 Height: A "dish antenna" mounted on the ground shall not exceed 15 feet in height above the mean ground level. A "dish antenna" mounted on a "building" or roof shall not exceed 12 feet in height, nor shall any



"dish antenna" project above the peak or highest point of the roof line in one and two family residential districts. The height of a "dish antenna" shall be measured from the bottom of its base or pad to the highest point of the "dish antenna" when in its most vertical position.

4.4.23.4 Materials: All "dish antennas" shall be of mesh-type open design, and the construction of the device shall not be brightly colored, reflective or otherwise obtrusive. It shall be properly colored to conform to the surrounding areas and "buildings."

4.4.23.5 Screening: All "dish antennas" shall be reasonably located and screened to minimize visibility from "streets" and the surrounding properties by using fencing, earth berms, landscaping and or architectural features.

4.4.23.6 Other Requirements: All "dish antennas" shall conform to the following additional requirements:

4.4.23.6.1 No more than one "dish antenna" shall be located on any "building," "structure" or "lot" in any residential district or within 25 feet of any residential district line or residential "use" in non-residential districts.

4.4.23.6.2 A "dish antenna" shall be designed for the exclusive use of residents of the "main building" in one and two family residential districts.

4.4.23.6.3 A "dish antenna" shall be located so as to minimize motor or other noises to the street, sidewalk or nearby properties.

4.4.23.6.4 All "dish antennas" shall be designed, constructed and installed in conformance with all building, electrical, fire prevention, noise and other applicable codes and the Tree Preservation Guidelines adopted by the City of White Plains, as well as any other construction or performance standards, rules and regulations of any governmental entity having jurisdiction over such devices, including, without limitation, the Federal Communications Commission (FCC).

4.4.23.7 Application Requirements: All "dish antennas" shall conform to the following application requirements:

4.4.23.7.1 A special permit shall be required for any "dish antenna" which has a dish component in excess of 4 feet in diameter

or 4 feet in width, is located outside of the "rear yard," is mounted on any roof, "building" or "structure," or does not conform to all the requirements set forth in Section 4.4.23 as determined by the Commissioner of Building.

4.4.23.7.2 A building permit may be issued for any "dish antenna" which is up to 10 feet in any dimension, is located outside of the "rear yard," is mounted on any roof, "building" or "structure," is of solid design and light or reflective color, when it is installed on a "building" or "structure" located in a C-O, O-R, B-3, CB-1, CB-2, CB-3, CB-4, B-6 or LI District, and the "dish antenna" is no closer than 100 feet from any "dwelling unit" or 25 feet from any residential district.

4.4.23.7.3 No building permit for the installation of any "dish antenna" shall be issued or application deemed complete until a detailed design has been submitted to the Department of Building showing and justifying the location, elevations, the maximum swing of the operating arc and screening. The Commissioner of Building may request additional data if deemed necessary.

4.4.23.7.4 All applications for a "dish antenna" shall be forwarded to the Design Review Board for review and report.

4.4.24 Accessory "Swimming Pools": "Swimming pools" shall not be located, installed, constructed or maintained on any "lot" except when in compliance with all of the following requirements and any of the individual standards contained in Section 6.7.3 of this Ordinance, where applicable.

4.4.24.1 "Swimming pools" installed above ground shall have a height no greater than 60 inches as measured from the mean ground level at the base of the pool to the rim of the pool. The exposed sides of such "swimming pool" shall be screened by evergreen landscaping whose height at the time of installation shall be at least equal to the height of the exposed portion of the "swimming pool," exclusive of "deck" rails. Such landscaping shall be no more than 5 feet away from the pool base and shall extend a minimum of 2 feet beyond the outer

edge of any projecting "deck." Such "swimming pools" shall have adequate fencing, a minimum of 6 feet in height, with a self-closing and self-latching and locking gate (integral "deck" rails and hinged lockable ladders shall be a sufficient substitute for fencing). The fencing shall surround the pool and accessory equipment only.

4.4.24.2 "Swimming pools" installed in the ground, where the rim of the pool is flush with the ground or with an on-ground "terrace," shall be required to have adequate fencing with a self-closing and self-latching and locking gate into the pool area and an evergreen screen which shall have a minimum height of 3 feet and shall be planted 3 to 4 feet on center around the "swimming pool" or property as specified by the Commissioner of Building. Fencing around "swimming pools" should be a minimum of 6 feet in height and of either metal or factory pressure-treated wood with preservatives. All posts, regardless of material, shall be embedded in concrete.

4.4.24.3 All "swimming pools" as measured from the edge of the "deck" area, or from the pool rim if no "deck" is provided, shall be located no less than 15 feet from all "lot lines."

4.4.24.4 All "swimming pools" shall be for the exclusive use of the occupant of the "main building" and his non-paying guests.

4.4.24.5 The applicant shall demonstrate to the satisfaction of the Commissioner of Building that the proposed "swimming pool" will comply with the Plumbing Code for all sewerage and sanitary facilities, and with the specifications of the Westchester County Board of Health for maintenance and operation.

4.4.24.6 The times of filling and emptying the "swimming pool," and pipe sizes to be used for such purposes, shall be specified in the permit, on recommendation of the Commissioner of Public Works.

4.4.24.7 All "swimming pool" fences shall be located not more than 25 feet from the edge of the "swimming pool."

- 4.4.24.8 The filter pump and electrical switch shall be in a locked enclosure at a location where noise will not emanate beyond the perimeter of the property, as determined by the Commissioner of Building. If applicable, the Commissioner of Building shall establish hours of operation.
- 4.4.24.9 Where the construction of a lake or pond, which otherwise meets the definition of "swimming pool," is reviewed as a part of a subdivision, "site plan" or special permit application, that review shall suffice and a separate permit under this Section need not be obtained.
- 4.4.25 "Environmentally Sensitive Sites or Features":
- 4.4.25.1 Any proposed action under this Ordinance which action is on, involves or may affect an "environmentally sensitive site or feature" shall be considered a Type I Action under the New York State Environmental Quality Review Act ("SEQRA").
- 4.4.25.2 Notwithstanding provision of this Ordinance to the contrary, and in addition to specific regulations pertaining to the approval of actions on, involving or which may affect an "environmentally sensitive site or feature," no such approval shall be given except following a public hearing held on due notice, provided, however, that no such hearing shall be required for minor amendments to "conservation developments" as set forth in Section 5.7 of this Ordinance.
- 4.4.25.3 Notwithstanding the minimum acreage specifications in Section 5.7.2.2, the Planning Board may apply the provisions of Section 5.7, "Conservation Developments" to such extent as may be necessary to preserve and/or protect "environmentally sensitive sites or features."
- 4.4.25.4 In determining whether any application for a special permit "use," "site plan" or subdivision approval (preliminary or final) or variance with respect to any "lot" or parcel of land containing steep slope areas should be granted, the approving agency shall consider the following factors:

4.4.25.4.1 the degree to which the proposed development of the area of the slope would create an unnatural shape;

4.4.25.4.2 the degree to which the proposed development of the area of the slope would enhance the attractiveness of the slope by terracing, landscaping, retaining walls or otherwise;

4.4.25.4.3 the degree to which the proposed development would obstruct views of the slope and surrounding areas;

4.4.25.4.4 the degree to which the proposed development would prevent or minimize erosion and otherwise protect the stability of the slope, both during and after construction.

4.4.25.5 In considering for approval an application for a subdivision involving an "environmentally sensitive site or feature," the Planning Board may make any reasonable changes to the minimum dimensions for "frontage," one "side yard" and two "side yards," "front yard" and "rear yard" as may be required to avoid or minimize impact upon such "environmentally sensitive site or feature." In the event the Planning Board makes such change, it shall require the applicant to submit a plat which reflects such change.

4.4.26 "Consumer Financial Services Establishment":

4.4.26.1 An applicant for a building permit as a "Consumer Financial Services Establishment" shall provide documentation satisfactory to the Commissioner of Building demonstrating that the proposed establishment meets the following criteria:

4.4.26.1.1 The establishment predominantly serves individual purchasers or clients on a walk-in basis, and that services by telephone or other electronic media, and services to commercial and/or institutional clients are not significant proportions of the establishment's intended business.

4.4.26.1.2 The establishment is not a bank. Indicia of a banking establishment include, but are not limited to, a charter

issued by state or federal banking authorities and insurance on clients' deposits by the FDIC or other federal deposit insurance mechanisms, and physical characteristics including service counters, teller stations, automated teller machines, and the like.

4.4.26.2 An establishment not qualifying as a "consumer financial services establishment" shall be classified as a business or professional office or a bank, as determined by the Commissioner of Building.

4.4.27 Incidental Seating in Food-selling Establishments:

4.4.27.1 Except as provided in Section 4.4.27.3 below, tables and seating may be placed for the use and convenience of customers in establishments which sell prepared foods, snacks and/or beverages for off-premises consumption.

4.4.27.2 In any establishment described in Section 4.4.27.1, no more than three tables and/or seats for no more than six "persons" may be installed or provided unless the establishments is approved as a "restaurant," "cafeteria" or "fast food eating establishment."

4.4.27.3 In the event that any establishment would qualify as a "fast food eating establishment" by the addition of seating as permitted under Section 4.4.27.1 above, no such seating shall be installed or provided unless the establishment is approved as a "fast food eating establishment."

4.4.27.4 The installation or provision of incidental seating in accordance with this Section 4.4.27 shall not qualify an establishment as a "restaurant," "cafeteria" or "fast food eating establishment."

4.4.28 "Mini-storage facility":

4.4.28.1 For a "mini-storage facility" abutting a residential district:

4.4.28.1.1 The "building" or enclosed "structure" wall of a "mini-storage facility," the location, "height," design and materials of which are approved by the approving agency, shall be deemed to be a wall under Section 4.4.19.2 of this Ordinance.

4.4.28.1.2 To mitigate visual and noise impacts to residences in the abutting residential district, the approving agency may require that the "mini-storage facility use" be located in one "building" or enclosed "structure" and may permit the

"coverage" of a "mini-storage facility" to be increased from 80% up to a maximum of 90%, and to permit the "floor area ratio" to be increased from 2.0 up to a maximum of 2.2.

4.4.28.2 There shall be no open air storage of any kind permitted at a "mini-storage facility."

4.4.28.3 Individual self-service storage units in a "mini-storage facility" shall not exceed 400 square feet in area.